

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING)
PHARMACY, INC. PRODUCTS LIABILITY)
LITIGATION)

This Document Relates to:)

MDL No. 1:13-md-2419-RWZ)

1:14-cv-13509-RWZ: *Andrews v. Insight Health Corp., et al.*)

**INSIGHT HEALTH CORP.'S ANSWER TO PETITION FOR ENTRY OF AN ORDER OF
PUBLICATION AND FINAL APPROVAL OF DISTRIBUTION OF WRONGFUL
DEATH SETTLEMENT PROCEEDS PURSUANT TO VA. CODE § 8.01-55**

Respondent, Insight Health Corp. (“Respondent”), by counsel, responds to the Petition for Entry of an Order of Publication and Final Approval of Distribution of Wrongful Death Settlement Proceeds Pursuant to Va. Code § 8.01-55 (July 20, 2017) (D.E. 3425) (“Petition”), as follows:

1. The Parties entered a “Settlement and Release Agreement” (“Agreement”) on February 12, 2015, which incorporated “First Amended Insight Claims Resolution Facility Procedures” (“Procedures”).

2. By order dated July 9, 2015, in the above-styled case, this Court approved the Agreement and the Procedures, and found the resolution of this wrongful death claim and the allocation process in the Procedures governing this claim to be fair and reasonable under the circumstances of the decedent’s death and in the best interests of the decedent’s estate and the statutory beneficiaries. *See* Order (July 9, 2015) (D.E. 2108) (approving settlement in *Andrews v. Insight Health Corp., et al.* (1:13-MD-2419-RWZ)).

3. The Court’s Order of July 9, 2015, further instructed the Parties to present a “Future Distribution Order” to the Court for consideration before any distribution could be made to the decedent’s statutory beneficiaries from their respective shares of the gross amount attributed to them

under the Procedures. *Id.* at 4. The Petition now before the Court is Petitioners' request for entry of the Future Distribution Order in this case as directed by the Court through its order of July 9, 2015.

4. On January 7, 2016, the Parties filed a Joint Motion to Confirm Satisfaction of Conditions to Global Settlement Agreement of Virginia Cases (Jan. 7, 2016) (D.E. 2562). The Court entered an Order on the Parties' Joint Motion to Confirm Satisfaction of Conditions to Global Settlement finding that the terms and conditions set forth in the Agreement had been satisfied. *See* D.E. 2583 (Jan. 13, 2016) (noting endorsement and entry of order granting Motion for Order (D.E. 2562)).

5. Petitioner, Tosha Andrews, filed her Petition on July 20, 2017. Significantly, Petitioner states that: "The only known liens associated with the settlement proceeds are the following":

- | | | |
|----|--|-------------|
| a. | Medicare Advantage: | \$84,386.81 |
| b. | Commonwealth of Virginia
Department of Medical Assistance
Services (Virginia Medicaid) | \$24,458.42 |

6. In reliance on Petitioner's representations in the Petition, including that the \$84,386.81 Medicare Advantage lien and the Commonwealth of Virginia Medicaid Department of Medical Assistance Services (Virginia Medicaid) lien of \$24,458.42, are the only known liens against the settlement proceeds, Respondent does not oppose the Petition or object to Petitioner's request that the Court approve the proposed distributions. Respondent joins in Petitioner's request that the Court dismiss this action with prejudice.

7. Respondent has no objection to the entry of an Order of Publication to request that the Clerk of the Circuit Court for the City of Roanoke, Virginia make arrangements for its publication in

the Roanoke Times, post the Order pursuant to Va. Code § 8.01-317 and, when publication is complete issue to Counsel a certificate of compliance therewith.

8. Respondent incorporates by reference Insight Health Corp.'s Answer to Petition for Final Approval of Compromise Settlement of Virginia Wrongful Death Claim Pursuant to Va. Code § 8.01-55 (July 3, 2015) (D.E. 2046), which Insight filed in response to the Petition for Approval of Compromise Settlement of Virginia Wrongful Death Claim Pursuant to Va. Code § 8.01-55 (June 30, 2015) (D.E. 2024).

9. Respondent respectfully requests that its counsel be permitted to appear by telephone at the hearing on Petitioner's request for the entry of a final distribution order rather than incurring the cost to travel from Richmond, Virginia to court in Boston.

WHEREFORE, Respondent, Insight Health Corp., by counsel, respectfully requests that the Court enter an order approving the Petition, granting the proposed distributions therein and dismissing this case with prejudice.

Respectfully Submitted

Date: August 3, 2017

INSIGHT HEALTH CORP.

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CERTIFICATE OF SERVICE

I certify that, on August 3, 2017, this document was filed through the CM/ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Stephen D. Busch
Stephen D. Busch

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